

1                                    **BEFORE THE ARIZONA REGULATORY BOARD**  
2                                    **OF PHYSICIAN ASSISTANTS**

3    In the Matter of

4    **ERIC A. CASTANEDA, P.A.-C**

5    Holder of License No. **2129**  
6    For the Performance of Health Care Tasks  
7    In the State of Arizona.

**Case No. PA-04-0042A**

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER FOR A LETTER  
OF REPRIMAND AND PROBATION**

8            This matter was considered by the Arizona Regulatory Board of Physician  
9    Assistants ("Board") at its public meeting on March 2, 2005. Eric A. Castaneda, P.A.  
10   ("Respondent") appeared before the Board with legal counsel Dan Cavett for a formal  
11   interview pursuant to the authority vested in the Board by A.R.S. § 32-2551. The Board  
12   voted to issue the following findings of fact, conclusions of law and order after due  
13   consideration of the facts and law applicable to this matter.

14                                    **FINDINGS OF FACT**

15            1.        The Board is the duly constituted authority for the regulation and control of  
16    physician assistants in the State of Arizona.

17            2.        Respondent is the holder of license number 2129 for the performance of  
18    healthcare tasks in the State of Arizona.

19            3.        On March 4, 2003 Respondent and the Board entered into a Consent  
20    Agreement ("March Agreement") to resolve an investigation. One of the terms of the  
21    March Agreement required Respondent not have any contact with minors in his practice.  
22    Board Staff conducted a chart review on May 14, 2004 to determine Respondent's  
23    compliance with the March Agreement and discovered Respondent had treated two  
24    minor patients. At its August 2004 meeting the Board considered Respondent's request  
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1 to modify the March Agreement to remove the prohibition on his having contact with  
2 minor patients. Upon reviewing the request and the Staff chart review the Board initiated  
3 case number PA-04-0042A to investigate Respondent's non-compliance with the March  
4 Agreement.

5         4. On August 26, 2004 Board Staff conducted an additional chart review and  
6 discovered Respondent had treated one additional minor patient during the term of the  
7 March Agreement. The dates Respondent treated the minor patients are May 6, 2003,  
8 January 14, 2004, and April 21, 2004. In his written response to the Board Respondent  
9 indicated after entering the March Agreement he had taken measures with his office staff  
10 to ensure that staff no longer scheduled minor patients. As a result of these steps he  
11 believed all patients he came into contact with were over the age of eighteen.  
12 Respondent noted he had seen approximately 3,800 patients during this time and only  
13 had contact with 3 minors.  
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15         5. Respondent testified at the formal interview that at no time did he ever  
16 intend to violate the March Agreement and respected it at all times. Respondent testified  
17 his contact with minor patients was a staff scheduling error. Respondent added that the  
18 two sixteen year old patients were scheduled on an emergency basis by staff.  
19 Respondent noted he did not know the age of these two patients until into the  
20 examination. Respondent testified the third patient was the son of a personal friend. The  
21 child had been sent to a physician for surgery and appeared for a follow-up appointment  
22 with Respondent at the end of the day. Respondent testified there were no physicians  
23 present in the office. Respondent testified he did not want to inconvenience the family by  
24 sending them home and having them come back at another time. Respondent testified  
25

1 he examined the boy's incision to see whether it was healing well. Respondent testified  
2 office staff had been spoken to extensively to prevent him from being scheduled to treat  
3 minor patients.

4 6. Respondent was asked if he was aware his friend's son was a minor and if  
5 treated him solely to avoid inconvenience to the family. Respondent testified the Board's  
6 understanding was correct. Respondent also indicated there was no confusion in his  
7 mind as to what was required of him pursuant to the March Agreement. Respondent was  
8 asked to explain his thought process regarding his actions when he realized he was in  
9 contact with minor patients. Respondent testified the older boys were both with their  
10 fathers and did not appear to be young. Respondent noted he usually walks into the  
11 room and the nurse will sum up why the patient is being seen. Respondent testified that,  
12 depending on how busy he is, he just walks in, does the examination, asks questions,  
13 and then sits down and discusses the findings and his recommendations. Respondent  
14 noted that the two young males presented with complaints of testicular pain and he was  
15 worried about the possibility of cancer. Respondent noted he did the examinations  
16 because he was concerned about whether the patients would return if he sent him away.

17 7. Respondent testified he chose to examine his friend's ten year-old son  
18 because his friend was upset by the possible inconvenience of having to come back at a  
19 later time and he decided to just take a look at the incision and send them home.

20 8. Respondent was asked if the patient charts are outside the examination  
21 room before he enters. Respondent testified either the nurse will hand it to him or he will  
22 get it from her, but either way, he does get the chart before he enters the examination  
23 room. Respondent was asked if having the chart before he entered the examination  
24 room. Respondent was asked if having the chart before he entered the examination  
25 room.

1 room allows him to check the patient's age before he even enters the room. Respondent  
2 testified it did and he now checks the patient's age.

3 9. Respondent was asked to review the steps he had taken to assure that he  
4 would not treat minor patients. Respondent testified during the time he came into contact  
5 with the three patients at issue office staff had little printed signs on the bottom of their  
6 computer saying Respondent is not to have contact with minor patients. Respondent  
7 testified after Board Staff came to the office to do the chart review he had the staff,  
8 including the physicians, sign an order that they were not to schedule Respondent to  
9 treat minors and, if staff did so, it would result in loss of employment. Respondent was  
10 asked if the person or persons who scheduled the three minor patients had his/her  
11 employment terminated. Respondent testified they had not because they claimed they  
12 believed the March Agreement prohibiting him from seeing minor females.

14 10. Respondent was asked if he inquires about the patient's age when he  
15 obtains the history of present illness. Respondent testified his current practice requires  
16 the nurse to ask first and then he either asks her or she tells him. Respondent stated  
17 when he treated the patients at issue he did not inquire as to their age and usually just  
18 examined the patient and then had a conversation with the patient. Respondent was  
19 asked if he was confused about what age qualifies a patient as a minor. Respondent  
20 testified he was not. Respondent was asked if he was the sole practitioner who saw the  
21 patients. Respondent testified he was.

### 23 CONCLUSIONS OF LAW

24 1. The Board possesses jurisdiction over the subject matter hereof and over  
25 Respondent.

2. The Board has received substantial evidence supporting the Findings of Fact described above and said findings constitute unprofessional conduct or other grounds for the Board to take disciplinary action.

3. The conduct and circumstances above constitute unprofessional conduct pursuant to A.R.S. § 32-2501(21)(k)("[v]iolation of a formal order, probation or stipulation issued by the board.")

## ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that:

1) Respondent is issued a Letter of Reprimand for violating a Board order.

2) Respondent is placed on Probation for two years with the following terms and conditions:

a. Respondent shall have a third party present whose view is unencumbered, while Respondent is examining or treating minor patients in all settings including, but not limited to, office, hospital and clinic. The third party must be an allied healthcare provider (medical assistant, registered nurse, licensed practical nurse) employed by Respondent or by the practice Respondent is affiliated with, the hospital or clinic and may not be a representative or relative who accompanied the patient. Respondent shall instruct the third party to document their presence by signing, dating and legibly printing their name on each patient's chart at the time of examination or treatment. Respondent shall instruct the third party to immediately report any inappropriate behavior to Respondent, his supervising physician, and the Board. Board Staff may perform random periodic chart reviews to verify compliance with this Order.

b. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all conditions of probation. The declarations shall be submitted on or before the 15th of

1 March, June, September and December of each year, beginning on or before September  
2 15, 2005.

3 c. Respondent shall provide a copy of this order to each of his supervising  
4 physicians as indicated in the Board's records.

5 d. Respondent shall obey all federal, state and local laws, all rules governing  
6 the performance of health care tasks in Arizona, and remain in full compliance with any  
7 court ordered criminal probation, payments and other orders.

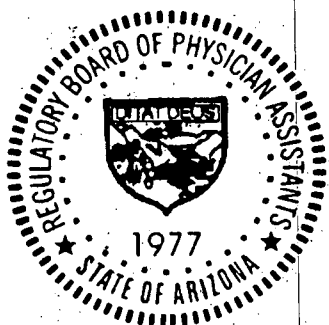
8 e. In the event Respondent should leave Arizona to reside or practice outside  
9 the State or for any reason should Respondent stop performing health care tasks in  
10 Arizona, Respondent shall notify the Executive Director within ten days of departure and  
11 return or the dates of non-performance within Arizona. Non-performance is defined as any  
12 period of time exceeding thirty days during which Respondent is not engaged in the  
13 performance of health care tasks. Periods of temporary or permanent residence or  
14 performance of health care tasks outside of Arizona or of non-performance within Arizona,  
15 will not apply to the reduction of the probationary period.  
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#### 17 **RIGHT TO PETITION FOR REHEARING**

18 Respondent is hereby notified that he has the right to petition for a rehearing. The  
19 petition for rehearing must be filed with the Board within thirty (30) days after service of  
20 this Order. A.R.S. § 41-1092.09. The petition must set forth legally sufficient reasons for  
21 granting a rehearing. A.A.C. R4-17-403. Service of this order is effective five (5) days  
22 after date of mailing. If a motion for rehearing is not filed, the Board's Order becomes  
23 effective 35 days after it is mailed to Respondent.

24 Respondent is further notified that the filing of a motion for rehearing is required to  
25 preserve any rights of appeal to the Superior Court.

1 DATED this 20<sup>th</sup> day of MAY, 2005.



ARIZONA REGULATORY BOARD OF  
PHYSICIAN ASSISTANTS

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*Amade Boh*  
TIMOTHY C. MILLER, J.D.  
Executive Director

Original of the foregoing filed this  
20<sup>th</sup> day of MAY, 2005 with:

Arizona Regulatory Board of  
Physician Assistants  
9545 East Doubletree Ranch Road  
Scottsdale, Arizona 85258

Executed copy of the foregoing  
mailed by U.S. certified mail this  
20<sup>th</sup> day of MAY, 2005, to:

Dan Cavett  
Cavett & Fulton, P.C.  
6035 East Grant Road  
Tucson, Arizona 85712-2317

Eric A. Castaneda, P.A.-C.  
Address of Record

*Eric A. Castaneda*